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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

14 BHPH Capital, LLC., a Delaware limited
15 liability company,

16 Plaintiff,

17 v.

18 JV Wholesalers, LLC, a New Jersey
19 limited liability company dba Century
20 Motor Cars; Victor C. Breen and Tara
21 Breen, husband and wife; James M.
22 Lithgow, Jr. and Jane Doe Lithgow,
23 husband and wife; Peter J. Cappiello Sr.
24 and Ann Cappiello, husband and wife;
25 ABC Corporations, 1-10; DEF
26 Partnerships, 1-10; GHI Limited Liability
27 Partnerships, 1-10; John Does, 1-10; and
28 Jane Does, 1-10,

Defendants.

Case No. 2:22-cv-00143-PHX-DJH

**MOTION TO DISMISS
COMPLAINT WITH PREJUDICE**

25 Pursuant to Local Rule of Civil Procedure LRCiv 7.2 (Tyler please confirm), Golden
26 Hirschhorn LLP, through undersigned counsel, applies by motion to the Court for an order
27 dismissing the complaint of Plaintiff, BHPH Capital, LLC ("BHPH"), or in the alternative

1 striking the complaint filed by BHPH and dismissing the action Local Rule of Civil Procedure
2 LRCiv 7.2(m), as a result of BHPH's failure to the order dated March 4, 2024, which appears on
3 the docket in this matter as document 91, which required BHPH to "on or before April 5, 2024,
4 Plaintiff must either retain substitute counsel and counsel must file a notice of appearance". The
5 Court's efforts to reach BHPH and its principal, Victor Breen, were returned as "unable to
6 forward", as reflected on the docket, document numbers 92 and 93. All efforts by our office and
7 Wilenchik & Bartness P.C. to contact or communicate with BHPH have been unsuccessful.

8
9 The conduct by BHPH indicates that, Plaintiff has abandoned this action without any
10 further attempt to prosecute the complaint.

11 This matter has not been set for trial. This motion is being served on BHPH and all other
12 parties or their attorneys. The last know address for BHPH's contact information is as follows:

13
14 BHPH
15 c/o Daniel Serpe
16 4850 W. Glendale Ave.
17 Glendale, AZ 85301

18 Or

19 13634 S. Canyon Dr.
20 Phoenix, AZ 85048

21 Serpe8858@gmail.com
22 don@bhphcap.com

23 This motion is also accompanied by a proposed form of order.

24 Accordingly, Golden Hirschhorn LLP and Wilenchik & Bartness, P.C. respectfully
25 requests that the Court enter the proposed order submitted with this motion.

26
27 RESPECTFULLY SUBMITTED this 26 day of April, 2024.
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GOLDEN HIRSCHHORN LLP

By: 

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WILENCHIK & BARTNESS, P.C.

By: 

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Phoenix, Arizona 85004
Attorneys for JV Wholesalers, LLC

CERTIFICATE OF SERVICE

I hereby certify that April 26 2024, I electronically transmitted the attached document to:

Via U.S. Mail to:

Victor C. Breen and Tara Breen
398 Main Street
West Creek, NJ 08092
Defendants Pro Per

James M. Lithgow Jr.
10908 Tarflower Dr.
Venice, FL 34293
Defendant Pro Per

Via U.S. Mail and Email to:

BHPH
c/o Daniel Serpe
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Glendale, AZ 85301

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/s/ Heidi Wellbrock